



United States General Accounting Office
Washington, DC 20548

February 15, 2002

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate

Subject: Regulatory Review: Delay of Effective Dates of Final Rules
Subject to the Administration's January 20, 2001, Memorandum

At the start of the Bush administration, as in other recent new administrations, there were hundreds of federal regulations at various stages of the rulemaking process.¹ Some were about to be sent to the Office of the Federal Register (OFR) for publication in the *Federal Register*, some had been sent to OFR but had not been published, and others had been published in the *Federal Register* but had not taken effect. Citing the desire to "ensure that the President's appointees have the opportunity to review any new or pending regulations," on January 20, 2001, Assistant to the President and Chief of Staff Andrew H. Card, Jr. sent a memorandum (Card memorandum) to the heads and acting heads of all executive departments and agencies generally directing them to (1) not send proposed or final regulations to OFR, (2) withdraw from OFR regulations that had been sent to the Office but not yet published in the *Federal Register*, and (3) postpone for 60 days the effective date of regulations that had been published in the *Federal Register* but had not yet taken effect. The Card memorandum instructed the officials to exclude any regulations that were promulgated pursuant to statutory or judicial deadlines, and to identify any such exclusions to the Director of the Office of Management Budget (OMB). It also said that agencies should notify the OMB Director of any regulations that should be excluded because they "impact critical health and safety functions of the agency," and that the Director would determine whether the exception was appropriate. Although the Card memorandum did not expressly cover independent regulatory

¹See Jay Cochran, III, *The Cinderella Constraint: Why Regulations Increase Significantly During Post-Election Quarters*, Mercatus Center (Oct. 5, 2000).

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Abstract <p>At the start of the Bush administration, as in other recent new administrations, there were hundreds of federal regulations at various stages of the rulemaking process. Some were about to be sent to the Office of the Federal Register (OFR) for publication in the Federal Register, some had been sent to OFR but had not been published, and others had been published in the Federal Register but had not taken effect. Citing the desire to ensure that the President's appointees have the opportunity to review any new or pending regulations, on January 20, 2001, Assistant to the President and Chief of Staff Andrew H. Card, Jr. sent a memorandum (Card memorandum) to the heads and acting heads of all executive departments and agencies generally directing them to (1) not send proposed or final regulations to OFR, (2) withdraw from OFR regulations that had been sent to the Office but not yet published in the Federal Register, and (3) postpone for 60 days the effective date of regulations that had been published in the Federal Register but had not yet taken effect. The Card memorandum instructed the officials to exclude any regulations that were promulgated pursuant to statutory or judicial deadlines, and to identify any such exclusions to the Director of the Office of Management Budget (OMB). It also said that agencies should notify the OMB Director of any regulations that should be excluded because they impact critical health and safety functions of the agency, and that the Director would determine whether the exception was appropriate. Although the Card memorandum did not expressly cover independent regulatory agencies, it said that those agencies were encouraged to participate voluntarily in this review.</p>		

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agencies, it said that those agencies were “encouraged to participate voluntarily in this review.”²

You asked that we examine the implementation of the part of the Card memorandum that directed agencies to delay the effective dates of published regulations. Our specific objectives were to (1) identify and characterize the rules subject to the memorandum whose effective dates were delayed, and (2) determine what had happened to each of those delayed rules as of the 1-year anniversary of the Card memorandum and identify any anticipated future actions regarding these rules. You also asked us to identify which rules the agencies indicated should not be delayed because they “impact critical health and safety functions of the agency,” and which of those rules OMB considered appropriate to exclude from the Card memorandum’s requirements. However, officials in OMB’s Office of Information and Regulatory Affairs (OIRA) told us that the agencies’ requests for exemptions were made informally, and OMB’s responses to those requests were also informal. Because of this lack of documentation, and because of the amount of time required to interview officials in each of the agencies that published regulations during this period, this objective was agreed with your offices to be beyond the scope of our review.

We primarily used a database that GAO developed pursuant to the Congressional Review Act portion of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.) to identify the rules that were subject to the memorandum’s requirements.³ We reviewed the *Federal Register* and other publications to identify the covered rules that were delayed and what eventually happened to each of those rules. However, we cannot be sure that we identified all subsequent rulemaking activity for all of the rules because agencies sometimes use different identifiers for related rules in their *Federal Register* documents. We sent a draft of this report to the Director of OMB for review and comment. OMB officials said they had no comment on the report. We did our work from December 2001 through January 2002 in accordance with generally accepted government auditing standards.

Results in Brief

Our review of readily available documentation indicated that federal agencies delayed the effective dates for 90 of the 371 final rules that were subject to the Card memorandum. The effective dates for the remaining 281 rules were either not delayed or we could find no indication in the *Federal Register* of a delay. The Departments of Health and Human Services (HHS), Transportation (DOT), and Agriculture (USDA), and the Environmental Protection Agency (EPA) delayed more than half of the 90 rules. The agencies considered 65 of the 90 delayed rules to be substantive in nature, and considered 12 to be “major” rules (e.g., rules with at least a \$100 million impact on the economy).

²Independent regulatory agencies include among others, the Federal Communications Commission, the Nuclear Regulatory Commission, and the Securities and Exchange Commission.

³The Congressional Review Act provides that before a rule becomes effective, the agency promulgating the rule must submit to each House of Congress and the Comptroller General a report containing (1) a copy of the rule, (2) a concise general statement relating to the rule, and (3) the proposed effective date of the rule.

As of the 1-year anniversary of the Card memorandum, 67 of the 90 delayed rules were postponed for one 60-day period and then appeared to have taken effect. Eight other rules were delayed for more than 60 days but appeared to have taken effect. The 15 remaining delayed rules had not taken effect by January 20, 2002.

Although most of the delayed rules had not been changed by the 1-year anniversary of the Card memorandum, one had been withdrawn, three had been withdrawn and replaced by new rules, and nine others had been altered in some way (e.g., changing the implementation date or modifying a reporting requirement). The agencies indicated that other rules might be changed in the future, and OIRA has placed five of the delayed rules on a list for “high priority” review. The agencies generally did not provide the public with a prior opportunity to comment on the delays in effective dates or rule changes, frequently indicating that notice and comment procedures were either not applicable, impracticable, or were contrary to the public interest.

Background

The basic process by which federal agencies develop and issue regulations is delineated in the Administrative Procedure Act (APA), 5 U.S.C. 553. The APA generally requires agencies to (1) publish a notice of proposed rulemaking in the *Federal Register*; (2) allow interested parties an opportunity to participate in the rulemaking process by providing “written data, views, or arguments;” and (3) publish a final rule 30 days before it becomes effective. However, the APA allows agencies to issue rules without a proposed rule in certain cases, such as when the agency is issuing a rule of agency organization, procedure, or practice, or when the agency determines for “good cause” that notice and comment procedures are “impracticable, unnecessary, or contrary to the public interest.”⁴ The effective date of a final rule is a substantive provision of a rule and any change or suspension of the effective date may only be accomplished through additional rulemaking; this action can follow either the three-step notice and comment process or, if appropriate, the more abbreviated process without a proposed rule.

Ninety of the 371 Rules Subject to the Card Memorandum Were Delayed

The Card memorandum was issued on the afternoon of Saturday, January 20, 2001, and instructed agencies to delay the effective dates for rules “that have been published” but had not taken effect. According to an OFR official, the rules published in the *Federal Register* on Monday, January 22, 2001, were printed on the evening of Friday, January 19, 2001, and the morning of January 20, 2001. Therefore, she said, rules published on January 22, 2001, should be counted as “published” by the time the Card memorandum was issued. As a result, for purposes of the coverage of this portion of the Card memorandum, we include any final rule that was published on or before January 22, 2001, and that was scheduled to take effect after January 20, 2001.

According to the GAO rules database, 371 final rules met those criteria and were potentially subject to the Card memorandum. (This total includes rules published by

⁴For a discussion of this issue, see U.S. General Accounting Office, *Federal Rulemaking: Agencies Often Published Final Actions Without Proposed Rules*, GAO/GGD-98-126 (Washington, D.C.: 1998).

independent regulatory agencies that were invited, but not required, to postpone the effective dates of their rules.) As table 1 shows, DOT published the largest number of these rules (132 rules), followed by EPA (60 rules) and HHS (29 rules).

Table 1: About Three-Quarters of Final Rules Subject to the Card Memorandum Were Not Delayed

Department/agency	Number of rules subject to the Card memo that were		Total
	Delayed	Not delayed	
Agriculture	10	6	16
Commerce	2	12	14
Education	3	10	13
Energy	8	6	14
Health and Human Services	16	13	29
Housing and Urban Development	4	1	5
Interior	6	2	8
Justice	4	4	8
Labor	5	3	8
Transportation	15	117	132
Treasury	0	12	12
Environmental Protection Agency	8	52	60
Federal Communications Commission	0	17	17
Nuclear Regulatory Commission	0	8	8
Securities and Exchange Commission	0	5	5
Other	9	13	22
Total	90	281	371

Source: GAO rules database and GAO analysis of *Federal Register* publications.

Note: The “not delayed” column includes final rules for which there was no evidence of their effective dates having been delayed. The “other” agencies that published rules that were delayed were the Office of Personnel Management (two rules), the Small Business Administration (one rule), the Social Security Administration (one rule), and the Corporation for National and Community Service (one rule). Four delayed rules were jointly issued (e.g., the Department of Defense and EPA).

As table 1 also shows, federal agencies did not delay the effective dates for 281 (about 75 percent) of the 371 rules. The agencies published documents in the *Federal Register* that explained why some of the rules’ effective dates were not being changed. For example, DOT published a notice in the *Federal Register* explaining that four of its rules had effective dates far enough in advance (one not until May 2003) that the intent of the Card memorandum could be met without extending those

dates.⁵ Also, 30 of the 281 rules that were not delayed were issued by independent regulatory agencies (the Federal Communications Commission, the Nuclear Regulatory Commission, and the Securities and Exchange Commission) that were not required to extend the effective dates of their rules.

OIRA officials told us that they, the agencies, and the White House agreed shortly after the Card memorandum was issued that certain types of numerous and noncontroversial rules (e.g., air worthiness directives issued by the Federal Aviation Administration and bridge opening schedules published by the Coast Guard) should be allowed to take effect as scheduled. Therefore, for the bulk of the rules that were not delayed, there were no subsequent *Federal Register* publications or other apparent explanations of why the rules were unaffected by the Card memorandum. In addition, OMB's 2001 report on the costs and benefits of regulations provides several examples of specific rules subject to the Card memorandum that appointees of the Bush administration reviewed and that were not delayed.⁶ Those rules included the following:

- EPA's January 18, 2001, final rule on diesel fuel sulfur control, which went into effect on its originally scheduled effective date of March 19, 2001.⁷
- The Department of Labor's January 18, 2001, final rule on the Service Contract Act, which went into effect on its originally scheduled effective date of March 19, 2001.⁸
- HHS's January 19, 2001, final rule on registration and listing of human cellular and tissue-based products, which went into effect as scheduled on April 4, 2001.⁹

OIRA officials said that because appointees from the Bush administration were consulted with regard to both these specific rules and the previously mentioned categories of rules, the intent of the Card memorandum was satisfied.

Characteristics of Delayed Rules

HHS, DOT, USDA, and EPA published more than half of the 90 rules covered by the Card memorandum that were delayed. (See app. I for details on each of these 90 rules.) The agencies identified 65 of the 90 delayed rules as "significant or substantive" in nature (i.e., more than just routine or administrative actions), and they considered 12 of those rules "major" under the Congressional Review Act.¹⁰

The issuing agencies specifically cited the Card memorandum as the reason for the delays in most of the 90 rules. In the remaining rules, the agencies cited other reasons for delaying the effective dates, as the following examples illustrate.

⁵See 66 *Fed. Reg.* 9673 (Feb. 9, 2001).

⁶*Making Sense of Regulation: 2001 Report to Congress on the Costs and Benefits of Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (Dec. 21, 2001).

⁷See 66 *Fed. Reg.* 5001.

⁸See 66 *Fed. Reg.* 5327.

⁹See 66 *Fed. Reg.* 5447.

¹⁰The Congressional Review Act defines a "major" rule as, among other things, having at least a \$100 million impact on the economy.

- The agencies issuing two of these rules indicated that they were being delayed because of requirements in the Congressional Review Act.¹¹ The agencies did not submit the rules to Congress until weeks after they were published in the *Federal Register*, thereby necessitating a 60-day delay from when the rules were finally submitted.
- The Agricultural Marketing Service within USDA said that its rule on “livestock mandatory reporting” was delayed because the agency needed additional time to test an electronic system used to collect required reports and to ensure that all program requirements and objectives would be met.¹²
- The Occupational Safety and Health Administration (OSHA) within the Department of Labor said that its rule on “safety standards for steel erection” was delayed because employers had questions about the standard and their ability to comply with it by the original effective date.¹³
- The National Highway Traffic Safety Administration (NHTSA) within DOT said that a delay of its rule on “school bus body joint strength” was necessary because the agency was in the process of completing the review of petitions for reconsideration of the rule.¹⁴

All of the initial delays in which the agencies cited the Card memorandum as the reason for the delay were for the prescribed 60-day period. However, the initial delays that were unrelated to the Card memorandum were sometimes for much longer periods. For example, NHTSA initially delayed the effective date for its rule on school bus body joint strength for 1 year. The Food and Drug Administration (FDA) within HHS initially delayed its rule on “aluminum in large and small volume parenterals” for 2 years.¹⁵ The effective dates for four other rules were initially delayed for between 6 and 8 months.¹⁶

The agencies did not provide the public with a prior opportunity to comment on any of these initial delays. The agencies generally cited two statutory exceptions for why notice and comment procedures were not followed: (1) the actions constituted a rule of procedure under the APA (and were therefore exempt from the APA’s requirements) and; (2) there was “good cause” to avoid notice and comment requirements because seeking public comments on the 60-day delays was impractical, unnecessary, and/or contrary to the public interest.

¹¹These rules were the USDA “national organic program” rule (delayed at 66 *Fed. Reg.* 15619, Mar. 20, 2001) and the HHS rule on “standards for privacy of individually identifiable health information” (delayed at 66 *Fed. Reg.* 12434, Feb. 26, 2001). Under the Congressional Review Act, a major rule cannot become effective until 60 days after it is submitted to Congress or published in the *Federal Register*, whichever is later.

¹²See 66 *Fed. Reg.* 8151 (Jan. 30, 2001).

¹³See 66 *Fed. Reg.* 37137 (July 17, 2001).

¹⁴The NHTSA rule was delayed at 66 *Fed. Reg.* 20199 (Apr. 20, 2001).

¹⁵The FDA rule was delayed at 66 *Fed. Reg.* 7864 (Jan. 26, 2001).

¹⁶These rules were the OSHA rule on safety standards for steel erection; DOT’s Federal Aviation Administration rules on “special flight rules” for the Grand Canyon National Park (delayed at 66 *Fed. Reg.* 16582, Mar. 26, 2001) and “service difficulty reports” (delayed at 66 *Fed. Reg.* 21625, Apr. 30, 2001); and a rule issued jointly by the Department of the Treasury, Federal Reserve System, and the Federal Deposit Insurance Corporation on “consumer protections for depository institution sales of insurance” (delayed at 66 *Fed. Reg.* 15345, Mar. 19, 2001).

Most Delayed Rules Became Effective Within 60 Days, But Some Were Modified or Withdrawn

As table 2 shows, of the 90 rules subject to the Card memorandum whose effective dates were delayed, 75 appeared to have gone into effect by January 20, 2002.¹⁷ Of these, 67 rules were delayed for a single 60-day period or less while 8 were delayed more than 60 days (3 were delayed once and 5 were delayed more than once).

Table 2: Most Delayed Rules Appeared to Have Taken Effect by January 20, 2002

Disposition of rules as of January 20, 2002	One-time delay of 60 days or less	One-time delay of more than 60 days	Multiple delays totaling more than 60 days	Total number of rules
Went into effect	67	3	5	75
Did not go into effect	1	3	11	15
Total number of rules	68	6	16	90

Source: GAO analysis of *Federal Register* publications.

Table 2 also shows that 15 of the rules subject to the Card memorandum whose effective dates were delayed had not taken effect by January 20, 2002, as explained in the following examples.

- Pursuant to the Card memorandum, EPA initially delayed the effective date of the agency's January 22, 2001, rule on arsenic in drinking water from March 23, 2001, until May 22, 2001. On April 23, 2001, EPA proposed extending the effective date until February 22, 2002, "to reassess the scientific and cost issues associated with this rule and to seek further public input on each of these issues." On May 22, 2001, EPA published a final rule that confirmed the delay in the effective date.¹⁸
- On May 10, 2001, (2 days before the end of its Card-related delay) the Idaho District Court granted a preliminary injunction enjoining the Forest Service from implementing all aspects of the agency's January 12, 2001, "roadless area

¹⁷In a few cases the agencies published documents in the *Federal Register* indicating that the delayed rules were taking effect either on the amended effective date or earlier. However, we could find no subsequent rulemaking in the *Federal Register* for most of these 75 rules. Because further delays or amendments to the rule would have required subsequent rulemaking, we believe that they became effective on or before their amended effective dates.

¹⁸See 66 Fed. Reg. 28341.

- conservation” rule.¹⁹ Since then, the agency has taken several related administrative actions but has otherwise not implemented the rule.
- On April 20, 2001, the Department of Energy (DOE) delayed the effective date of its January 22, 2001, rule on energy conservation standards for consumer central air conditioners and heat pumps indefinitely pending a court decision regarding a petition for judicial review.²⁰ On July 25, 2001, DOE published a supplemental proposed rule and a proposed withdrawal of the original rule. The department said it was reopening the rulemaking record because litigation seemed inevitable. On September 27, 2001, DOE published a proposed rule that extended the comment period to October 19, 2001.
 - On July 5, 2001, the Mine Safety and Health Administration (MSHA) announced that one part of its rule on “diesel particulate matter exposure for metal and nonmetal miners” would not take effect until disposition of litigation challenging the rule.²¹ On the same day, MSHA published a proposed rule that gave notice of the agency’s intent to revise two provisions in the rule and requested comments from the mining industry.
 - On November 23, 2001, the Federal Aviation Administration (FAA) within DOT delayed the effective date of its “service difficulty reports” rule until January 16, 2003.²² FAA said the action was “prompted by concerns the aviation industry raised about the reporting requirements in the final rule and the FAA’s decision to issue a notice of proposed rulemaking (NPRM) to address these concerns.”
 - On December 5, 2001, FAA extended the effective date for portions of its rule on the Grand Canyon National Park “special flight rules area” until February 20, 2003.²³ FAA said it did so because it was working on proposed changes to the rule.

Table 2 also shows that 16 of the rules were delayed more than once—5 that had gone into effect as of January 20, 2002, and 11 that had not gone into effect. For all but two of these rules, the agencies announced the additional delays without providing the public with a prior opportunity to comment, again generally citing the APA’s rule of procedure and/or good cause exceptions.

Delayed Rules That Were Modified or Withdrawn

As of January 20, 2002, most of the 90 delayed rules had not been changed since their publication as a final rule. However, one of the rules had been withdrawn by the issuing agency and had not been replaced. On November 9, 2001, the Bureau of Indian Affairs within the Department of the Interior published a “withdrawal of final rule” action in the *Federal Register* that withdrew the agency’s January 16, 2001, rule on “procedures used by Indian tribes and individuals to acquire title to land in trust.”²⁴ The agency said it withdrew the rule to address “specific areas of concern in a new rule,” and said the withdrawal was effective immediately.

¹⁹ *Kootenai Tribe of Idaho v. Veneman*, 142 F.Supp. 2d 1231 (D. Idaho 2001).

²⁰ See 66 Fed. Reg. 2091.

²¹ See 66 Fed. Reg. 35518.

²² See 66 Fed. Reg. 58912.

²³ See 66 Fed. Reg. 63294.

²⁴ See 66 Fed. Reg. 56608.

Three other delayed rules were withdrawn by the agency but were replaced with new rules. A description of those rules and the post-Card memorandum actions withdrawing and replacing them follows.

- On July 6, 2001, HHS published a notice of proposed rulemaking seeking comments on three changes to its January 17, 2001, rule on “protection of human research subjects.” On November 13, 2001, HHS published a final rule that withdrew and replaced the original rule.²⁵ The Department said the new rule, among other things, clarified provisions for paternal consent when research is conducted involving fetuses and clarifies language that applies to research on newborns of uncertain viability. The new rule took effect on December 13, 2001.
- On July 5, 2001, CMS proposed an amendment to its January 18, 2001, rule on “anesthesia services,” allowing states to opt out of the physician supervision requirement. On November 13, 2001, CMS withdrew the original rule and made the proposed amendment final, effective on that date.²⁶ The agency said the change in the rule would give states the flexibility to improve access and address safety issues.
- On April 23, 2001, the Small Business Administration (SBA) published a proposed withdrawal of its January 22, 2001, rule on the “new markets venture capital program” and proposed new regulations to implement the program. On May 23, 2001, SBA published a final rule that withdrew and made the new regulations final.²⁷ The agency said it was implementing the new regulations instead of the original rule because there were substantive changes made to the program based on the administration’s review.

In all four of the actions withdrawing the rules, the agencies first published a proposed rule and invited the public to comment on the withdrawal before taking final action. The four rules in existence at the time of the Card memorandum did not go into effect, but all three of the replacement rules had become effective by January 20, 2002.

Nine other delayed rules had been changed in some way but not withdrawn by January 20, 2002, as the following examples illustrate.

- On May 22, 2001, CMS published an interim final rule that clarified what facilities were subject to the requirements in the agency’s rule on the use of restraint and seclusion in residential treatment facilities providing inpatient psychiatric services to individuals under the age of 21.²⁸ The action also modified the rule’s reporting requirements and amended staffing requirements.
- On May 31, 2001, the Federal Railroad Administration (FRA) within DOT published a final rule that delayed the compliance date for one of the requirements in its January 17, 2001, “end of train devices” rule until “a future date to be specified.”²⁹ FRA said it did so in response to a petition from the Association of American Railroads. Later, on August 1, 2001, FRA published a final rule that

²⁵See 66 Fed. Reg. 56775.

²⁶See 66 Fed. Reg. 56762.

²⁷See 66 Fed. Reg. 28602.

²⁸See 66 Fed. Reg. 28110.

²⁹See 66 Fed. Reg. 29501.

clarified and amended the maintenance and testing requirements in the rule.³⁰ FRA said it did so in response to another petition for reconsideration, and that it would respond to other petitions in the near future.

- On October 18, 2001, the Food and Nutrition Service within the Department of Agriculture published a final rule delaying the implementation date of its December 29, 2000, “supplemental nutrition program for women, infants and children” from February 27, 2002, until October 1, 2002.³¹ In an earlier rule proposing this delay, the agency said the action was “necessary to provide State agencies additional time to implement the rule, to promote more effective and efficient implementation of the new requirements, and because the new implementation date corresponds with the beginning of the Federal fiscal year.”
- On December 3, 2001, NHTSA published a final rule that made clarifying amendments regarding the application of its rule on electrolyte spillage and electrical shock protection.³² NHTSA said it did so in response to petitions for reconsideration of the rule.
- On December 13, 2001, NHTSA published a final rule that made various changes and clarifications to the agency’s November 5, 1998, rule on school bus body joint strength.³³ NHTSA said that it did so in response to petitions for reconsideration of the rule.

All but one of the modified rules had gone into effect by January 20, 2002. Most of the nine rules were changed without giving the public a prior opportunity for comment.

Delayed Rules That May Be Changed or Withdrawn

Other delayed rules had not been withdrawn or changed by the 1-year anniversary of the Card memorandum, but the agencies indicated they might be changed or withdrawn in the future, as the following examples illustrate.

- On June 29, 2001, the National Park Service within DOI settled a lawsuit in relation to its January 22, 2001, rule that placed restrictions on snowmobiles and other winter activities in Yellowstone and Grand Teton National Parks. As a result of the agreement, the National Park Service will develop a new environmental impact statement by March 15, 2002, and issue a new final rule by November 15, 2002. A spokesperson for the National Park Service was quoted in the press as saying that the settlement of the lawsuit could result in a removal of restrictions on snowmobiles in the parks.
- As noted previously, on July 25, 2001, DOE proposed the withdrawal of its January 22, 2001, rule on central air conditioner and heat pump energy conservation standards.³⁴ DOE said it had made several errors during the promulgation of the rule and concluded that since litigation appeared inevitable, “the better course is to reopen the rulemaking record on issues regarding economic justification with the objective of publishing, after considering public comments, a final rule as soon as possible.”

³⁰See 66 Fed. Reg. 39683.

³¹See 66 Fed. Reg. 52849.

³²See 66 Fed. Reg. 60157.

³³See 66 Fed. Reg. 64358.

³⁴See 66 Fed. Reg. 38822.

- On August 17, 2001, CMS delayed the effective date of its rule on “Medicaid managed care” until August 16, 2002. Three days later, CMS published a proposed rule “to address some of the concerns that were expressed to the Department during our review.”³⁵ As of January 20, 2002, the proposed rule had not been made final.
- A BLM rule on “onshore oil and gas operations” took effect on November 6, 2001, but on November 9, 2001, the agency said that it “may give further consideration to alternative approaches...either separately or in connection with broader revisions of its oil and gas regulations.”³⁶
- As noted previously,
 - MSHA has proposed revising two provisions of its rule on diesel particulate matter exposure for metal and nonmetal miners.
 - FAA indicated that it intends to issue a proposed rule addressing concerns raised by the aviation industry about its service difficulty reports rule.
 - FAA also indicated that it was working on changes to its rule on the Grand Canyon National Park special flight rules area.

OIRA’s recent report on the costs and benefits of federal regulations also suggested that some of the delayed rules might be in flux. In a May 2001 draft of the report, OIRA asked for suggestions from the public on specific regulations that could be rescinded or changed. OIRA received 71 suggestions from the public and, in its December 2001 final report, the agency placed those suggestions into one of three categories: (1) “high priority”(those with which OIRA said it was “inclined to agree and look into the suggestion”), (2) “medium priority” (those on which OIRA said it needed more information), and (3) “low priority” (those on which OIRA said it was not convinced of the merits of the suggestion). OIRA put 23 of the 71 suggestions in the “high priority” category. Five of these 23 high priority suggestions involved rules that had been subject to the Card memorandum and had been delayed. Those rules were

- The Forest Service rule on roadless area conservation,
- The DOE rule on air conditioner and heat pump energy conservation standards,
- The HHS rule on standards for privacy of individually identifiable health information,
- The National Park Service’s rule on snowmobiles, and
- EPA’s January 22, 2001, rule on arsenic in drinking water.

OIRA’s report said that it might send a “prompt” letter to the responsible agency in relation to each of the 23 high-priority suggestions for its “deliberation and response.”³⁷

³⁵See 66 Fed. Reg. 43614.

³⁶See 66 Fed. Reg. 56616.

³⁷According to OMB, a prompt letter is sent on OMB’s initiative, suggests an issue that OMB believes is worthy of agency priority, and contains a suggestion for how the agency can improve its regulations.

Agency Comments and Our Evaluation

On February 6, 2002, we provided a draft of this report to the Director of the Office of Management and Budget for his review and comment. OIRA officials told us that they had no comments on the report.

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As we agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. At that time, we will send copies of this letter to the Director of OMB, and the Chairman of the House Committee on Government Reform, the Ranking Minority Member of the Senate Committee on Governmental Affairs. The letter will also be available on GAO's home page at www.gao.gov.

If you have any questions, you may contact Curtis Copeland or me at (202) 512-6806. Key contributors to this assignment include Joseph Santiago and Elizabeth Powell.



Victor S. Rezendes
Managing Director
Strategic Issues

**Appendix I: Rules Subject to the January 20, 2001, Card Memorandum
That Were Delayed**

Date final rule appeared in the <i>Federal Register</i>	Title	Major rule	Significant or substantive rule	Rule's effective date as of Card Memo	Extended effective date	Date of action extending effective date	Summary of rulemaking and other actions¹
Department of Agriculture (10)							
12/01/00	Livestock and Grain Market News Branch: Livestock Mandatory Reporting (Establishes a mandatory program of reporting information regarding the marketing of cattle, swine, lambs, and products of such livestock.)		X	01/30/01	04/02/01	01/30/01	<p>On January 30, 2001, the Agricultural Marketing Service (AMS) published a final rule that postponed the effective date of the regulation from January 30, 2001, until April 2, 2001, but AMS did not mention the Card memo. AMS determined that additional time was required to adequately test the electronic system used to collect the required livestock reports and ensure that all program requirements and objectives would be met.</p> <p>In its December 2001 report on the costs and benefits of federal regulations, the Office of Information and Regulatory Affairs (OIRA) said that this rule went into effect on April 2, 2001.²</p>
12/18/00	Specifically Approved States Authorized to Receive Mares and Stallions Imported from Regions Where [Contagious Equine Metritis] CEM Exists			02/16/01	04/17/01 02/16/01	02/05/01 02/22/01	<p>Pursuant to the Card memo, on February 5, 2001, the Animal and Plant Health Inspection Service (APHIS) published a final rule delaying the effective date of the regulation from February 16, 2001, to April 17, 2001.³ Subsequently, on February 22, 2001, APHIS published a direct final rule stating that it had finished its review and determined that "the rule may be made effective without further delay." In that rule,</p>

¹The *Federal Register* indicated that some of the rules' effective dates had been delayed, but no subsequent rulemaking action was indicated. Because further delays in the effective dates would have required new rulemaking, we concluded that the rules appeared to have taken effect.

²*Making Sense of Regulation: 2001 Report to Congress on the Costs and Benefits of Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (Dec. 21, 2001)

³In this appendix, the phrase "pursuant to the Card memo" indicates that the agency specifically cited the Card memorandum as the reason for the delay in the effective date.

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Date final rule appeared in the <i>Federal Register</i>	Title	Major rule	Significant or substantive rule	Rule's effective date as of Card Memo	Extended effective date	Date of action extending effective date	Summary of rulemaking and other actions¹
							APHIS reestablished and confirmed the original effective date of February 16, 2001.
12/21/00	National Organic Program (The National Organic Program establishes national standards for the production and handling of organically produced products, including a list of those substances approved for, or prohibited from, use in organic production and handling.)	X	X	02/20/01	04/21/01	03/20/01	<p>On March 20, 2001, AMS published a final rule that delayed the effective date of this rule for 60 days from February 20, 2001, until April 21, 2001, but AMS did not mention the Card memo. According to the agency, the rule's effective date was delayed to meet the requirements of the Congressional Review Act portion of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.), which does not permit a major rule to take effect until 60 days after it has been submitted to Congress and the Comptroller General. AMS did not submit the rule to Congress and the Comptroller General until February 20, 2001.</p> <p>In its December 2001 report on the costs and benefits of federal regulations, OIRA said that this rule went into effect on April 21, 2001.</p>
12/29/00	Special Supplemental Nutrition Program for Women, Infants and Children (WIC); Food Delivery Systems (Strengthens vendor management in retail food delivery systems by establishing mandatory selection criteria, training requirements, criteria to identify high-risk vendors, and monitoring requirements, including			02/27/01	04/28/01	02/05/01	<p>Pursuant to the Card memo, on February 5, 2001, the Food and Nutrition Service (FNS) published a final rule delaying the effective date of the regulation from February 27, 2001, to April 28, 2001. The rule took effect on that date.</p> <p>On August 2, 2001, FNS published a related proposed rule that would, if made final, extend the <u>implementation</u> date of the regulation from February 27, 2002, until October 1, 2002. FNS said that the extension of</p>

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	compliance investigations.)						the implementation date was "necessary to provide State agencies additional time to implement the rule, to promote more effective and efficient implementation of the new requirements, and because the new implementation date corresponds with the beginning of the Federal fiscal year." On October 18, 2001, FNS published a final rule delaying the implementation date until October 1, 2002.
01/03/01	Animal Welfare; Confiscation of Animals			02/02/01	04/03/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, APHIS published a final rule delaying the effective date of the regulation from February 2, 2001, to April 3, 2001. The rule took effect on that date.
01/03/01	Animal Welfare; Marine Mammals			02/02/01	04/03/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, APHIS published a final rule delaying the effective date of the regulation from February 2, 2001, to April 3, 2001. The rule took effect on that date.
01/09/01	Loans to Indian Tribes and Tribal Corporations		X	02/08/01	04/09/01	02/05/01	Pursuant to the Card memo, on February 5, 2001, the Farm Service Agency published a final rule delaying the effective date of the regulation from February 8, 2001, to April 9, 2001. The rule took effect on that date.
01/12/01	Special Areas; Roadless Area Conservation (Prohibits road construction, road reconstruction, and timber harvesting in inventoried roadless areas on National Forest Service land.)	X	X	03/13/01	05/12/01	02/05/01	Pursuant to the Card memo, on February 5, 2001, the Forest Service (FS) published a final rule delaying the effective date of the regulation from March 13, 2001, to May 12, 2001. Subsequently, on May 4, 2001, the Secretary of Agriculture, in a statement to the press, announced that the rule would become effective

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							<p>May 12, 2001, and that amendments would be proposed in June.</p> <p>On May 10, 2001, the Idaho District Court granted a preliminary injunction (see <i>Kootenai Tribe of Idaho v. Veneman</i>, 142 F.Supp. 2d 1231 (D. Idaho 2001)) enjoining FS from implementing "all aspects of the Roadless Area Conservation Rule." The Court concluded that the comment period was "grossly inadequate and thus deprived the public of any meaningful dialogue or input in to the process." The injunction has been appealed and, as of January 20, 2002, was pending before the Ninth Circuit Court of Appeals.</p> <p>On June 7, 2001, the Chief of the Forest Service issued a letter that (1) reserved to himself the decision authority for timber harvest and road construction in inventoried roadless areas, (2) instructed agency officials and staff to complete the identification and mapping of existing classified roads, (3) instructed agency officials and staff to ensure that forest plan amendments and revisions consider the long-term protection and management of unroaded portions of inventoried roadless areas.</p> <p>On July 10, 2001, FS published an advanced notice of proposed rulemaking to give the public an opportunity to comment on a number of key issues that have been raised</p>

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							<p>regarding the protection of roadless areas.</p> <p>In January 2002, an FS official was quoted in the press as saying that the agency may participate in a dialogue with other interested parties in early 2002, and may propose new roadless area regulations later in the year.</p> <p>In its December 2001 report on the cost and benefits of federal regulations, OIRA identified this rule for "high priority" review.</p>
01/12/01	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance			02/12/01	04/13/01 08/13/01	02/05/01 04/12/01	Pursuant to the Card memo, on February 5, 2001, FNS published a final rule delaying the effective date of the regulation from February 12, 2001, to April 13, 2001. Subsequently, on April 12, 2001, FNS published a final rule that further delayed the rule by 120 days to August 13, 2001. FNS said it did so to give Department officials the opportunity for further review of the rule and for consideration of new regulations. The rule took effect on August 13, 2001.
01/17/01	Food Stamp Program: Personal Responsibility of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	X	X	04/02/01	06/01/01 07/31/01	02/05/01 06/01/01	Pursuant to the Card memo, on February 5, 2001, FNS published a final rule delaying the effective date of the regulation from April 2, 2001, to June 1, 2001. Subsequently, on June 1, 2001, FNS published a final rule that extended the effective date for an additional 60 days to July 31, 2001. FNS said this would allow the new Under Secretary of the Food, Nutrition, and Consumer Service an opportunity to review the rule. The

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							rule took effect on July 31, 2001.
Department of Commerce (2)							
12/11/00	Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Atlantic Herring Fishery Management Plan		X	03/12/01	05/11/01	02/27/01	Pursuant to the Card memo, on February 27, 2001, the National Oceanic and Atmospheric Administration (NOAA) published a final rule delaying the effective date of certain portions of this regulation from March 12, 2001, to May 11, 2001. The rule took effect on that date.
12/29/00	Fisheries of the Northeastern United States; Dealer Reporting Requirements			01/28/01	04/01/01	02/12/01	Pursuant to the Card memo, on February 12, 2001, NOAA published a notification staying the effective date of the notification published on December 29, 2000, from January 28, 2001, to April 1, 2001. Those parts of the rule took effect on that date.
Department of Education (3)							
01/08/01	Developing Hispanic-Serving Institutions Program		X	02/07/01	04/08/01	02/01/01	Pursuant to the Card memo, on February 1, 2001, the Department of Education (DOEd) published a final rule delaying the effective date of the regulation from February 7, 2001, to April 8, 2001.
01/08/01	Assistance to States for the Education of Children with Disabilities		X	02/09/01	04/10/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOEd published a final rule delaying the effective date of the regulation from February 9, 2001, to April 10, 2001.
01/17/01	State Vocational Rehabilitation Services Program		X	02/16/01	04/17/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOEd published a final rule delaying the effective date of the regulation from February 16, 2001, to April 17, 2001.
Department of Energy (8)							
01/10/01	Nuclear Safety Management		X	02/09/01	04/10/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, the Department of Energy (DOE) published a final rule delaying the effective date of the regulation from February 9, 2001, to

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							April 10, 2001. Subsequently, on April 17, 2001, DOE published a final rule stating that the Department had completed its review and that it was not modifying the rule. DOE also confirmed the April 10, 2001, effective date.
01/11/01	Alternate Fuel Transportation Program; Biodiesel Fuel Use Credit		X	02/12/01	04/13/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOE published a final rule delaying the effective date of the regulation from February 12, 2001, to April 13, 2001. Subsequently, on May 2, 2001, DOE published a final rule stating that the Department had completed its review and that it was not modifying the rule. DOE also confirmed the April 13, 2001, effective date.
01/12/01	Energy Efficiency Program for Commercial and Industrial Equipment; Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment		X	02/12/01	04/13/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOE published a final rule delaying the effective date of the regulation from February 12, 2001, to April 13, 2001. Subsequently, on May 21, 2001, DOE published a final rule stating that the Department had completed its review and that it was not modifying the rule. DOE also confirmed the April 13, 2001, effective date.
01/12/01	Office of Energy Efficiency and Renewable Energy; Energy Conservation Program for Consumer Products: Clothes Washer Energy Conservation Standards	X	X	02/12/01	04/13/01	02/02/01	Although the effective date of most of the rule is January 1, 2004, the effective date for one part of the rule was February 12, 2001. On February 2, 2001, pursuant to the Card memo, DOE published a final rule that delayed the effective date for this section of the rule until April 13, 2001. On April 17, 2001, DOE published a

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							final rule denying a petition for reconsideration of the rule, and confirming its April 13, 2001, effective date.
01/18/01	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance		X	02/20/01	04/23/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOE published a final rule delaying the effective date of the regulation from February 20, 2001, to April 23, 2001. Subsequently, on April 11, 2001, DOE published a final rule stating that it had completed its review and that it was not modifying the rule. DOE also confirmed this rule's April 23, 2001, effective date.
01/18/01	Contractor Legal Management Requirements; Department of Energy Acquisition Regulation		X	02/20/01	04/23/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOE published a final rule delaying the effective date of the regulation from February 20, 2001, to April 23, 2001. Subsequently, on April 17 2001, DOE published a final rule stating that it had completed its review and that it was not modifying the rule. DOE also confirmed this rule's April 23, 2001, effective date.
01/18/01	Office of Security and Emergency Operations; Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (Prescribes the security procedures that a DOE employee or contractor must follow to make a protected disclosure of classified or		X	02/20/01	04/23/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, DOE published a final rule delaying the effective date of the regulation from February 20, 2001, to April 23, 2001. Subsequently, on May 10, 2001, DOE published a final rule stating that DOE had completed its review and that it was not modifying the rule. DOE also confirmed this rule's April 23, 2001, effective date. On October 30, 2001, DOE published a

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	other controlled information.)						final rule, effective November 29, 2001, amending one section of the rule to address the scope of the whistleblower protection program. The change was made pursuant to a comment from the Special Counsel of the U.S. Office of the Special Counsel clarifying that disclosure of information is also protected under the Whistleblower Protection Act of 1989.
01/22/01	Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pump Energy Conservation Standards	X	X	02/21/01	04/23/01 indefinite	02/02/01 04/20/01	Pursuant to the Card memo, on February 2, 2001, DOE published an interim final rule delaying the effective date of the regulation from February 21, 2001, to April 23, 2001. However, DOE did not change the date when the rule would be enforceable against manufacturers—January 23, 2006. During the 60-day review period, DOE received a petition from the Air-Conditioning and Refrigeration Institution (ARI) contending that the new rule “unfairly and erroneously raised the standards level...” On March 19, 2001, DOE was notified that ARI had filed a petition for review in the United States Court of Appeals for the Fourth Circuit. On April 20, 2001, DOE published a final rule that delayed this rule’s effective date indefinitely pending a decision by the United States Court of Appeals for the Fourth Circuit regarding ARI’s petition for judicial review of the final rule. The agency indicated that it would likely resolve the issues raised by ARI through supplemental rulemaking that would

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							<p>be forthcoming.</p> <p>On July 25, 2001, DOE published a supplemental proposed rule and a proposed withdrawal of the final rule. In its proposed withdrawal of the final rule, the agency stated that it had concluded that the January 22, 2001, rule should be reconsidered and therefore granted ARI's petition. DOE said that it granted the petition because "(1) [it] should have invited the Department of Justice to submit a supplemental determination on the potential anti-competitive impact, (2) the statement of basis for the final rule did not sufficiently explain DOE's consideration of cumulative burden attributable to other Federal agencies' and State regulatory actions, which was necessary to DOE's conclusion regarding the potential impact of the final rule on manufacturers, and (3) [it] gave inadequate weight to the potential impact of higher installation and equipment costs on some types of consumers and to potential burdens on manufacturers." DOE also concluded that since litigation appeared inevitable, "the better course is to reopen the rulemaking record on issues regarding economic justification with the objective of publishing, after considering public comments, a final rule, as soon as possible in 2001."</p> <p>On September 27, 2001, DOE published a proposed rule that extended the comment period to</p>

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							October 19, 2001. In its December 2001 report on the cost and benefits of federal regulations, OIRA identified this rule for "high priority" review.
Department of Health and Human Services (16)							
12/03/99	Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements and Administrative Procedures		X	10/01/01	04/01/02	03/01/01	Prior to the publication of the Card memo, on May 3, 2000, the Food and Drug Administration (FDA) delayed the effective date of certain requirements in the rule to October 1, 2001. The delayed requirements relate to wholesale distribution of prescription drugs by distributors of record and distribution of blood derivatives by entities that meet the definition of a "health care entity." On March 1, 2001, FDA published a final rule that further delayed the effective date of the pending provisions to April 1, 2002, and said that the delay was needed in order to address concerns raised by affected parties about the requirements. However, FDA noted that the extension satisfied the 60 days required by the Card memo.
01/26/00	Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition (Adds certain labeling requirements, specifies upper limit, and requires applicant to submit validated assay methods for detecting aluminum content in parenteral drug products.)		X	01/26/01	01/26/03	01/26/01	On January 26, 2001, FDA published a final rule that extended this rule's effective date until January 26, 2003, but did not mention the Card memo. The agency stated that some of the affected products were medically necessary and without alternatives, and could not be reformulated by the existing effective date. This inability to reformulate the products raised several safety concerns, including the potential risk to certain patients.

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10/30/00	Postmarketing Studies for Approved Human Drug and Licensed Biological Products; Status Reports		X	02/27/01	04/30/01	02/20/01	Pursuant to the Card memo, on February 20, 2001, FDA published a final rule delaying the effective date of the regulation from February 27, 2001, to April 30, 2001. The rule took effect on that date.
12/27/00	National Medical Support Notice		X	01/26/01	03/27/01	01/26/01	Pursuant to the Card memo, on January 26, 2001, the Office of Child Support Enforcement published a final rule delaying the effective date of the regulation from January 26, 2001, to March 27, 2001. The rule took effect on that date.
12/28/00	Standards for Privacy of Individually Identifiable Health Information	X	X	02/26/01	04/14/01	02/26/01	<p>On February 26, 2001, the Office for Civil Rights (OCR) within the Office of the Secretary published a final rule that delayed the effective date of this rule from February 26, 2001, to April 14, 2001, but OCR did not mention the Card memo. According to OCR, the rule's effective and compliance dates were delayed to meet the requirements of the Congressional Review Act, which does not permit a major rule to take effect until 60 days after it has been submitted to Congress and the Comptroller General. OCR did not submit the final rule to Congress and the Comptroller General until February 13, 2001.</p> <p>On February 28, 2001, OCR published a final rule to solicit comments on a technical amendment to the rule. These comments were due no later than March 30, 2001. According to OCR, this action did not affect the newly established effective date of April 14, 2001.</p>

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							In its December 2001 report on the cost and benefits of federal regulations, OIRA identified this rule for "high priority" review.
01/04/01	Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships			02/05/01 01/04/02	04/06/01 01/06/03	02/02/01 12/03/01	<p>Section 424.22(d) of the rule was originally scheduled to take effect on February 5, 2001. The remainder of the rule was originally scheduled to take effect on January 4, 2002.</p> <p>Pursuant to the Card memo, on February 2, 2001, the Centers for Medicare and Medicaid Service (CMS)⁴ published a final rule delaying the effective date of section 424.22(d) until April 6, 2001. That portion of the rule took effect on that date.</p> <p>On December 3, 2001, CMS published a final rule that delayed the effective date of the last sentence of section 411.354(d)(1) of the rule until January 6, 2003. CMS said this extension would give officials the opportunity to reconsider a key definition of the regulation.</p>
01/11/01	State Child's Health; Implementing Regulations for the State Children's Health Insurance Program	X	X	04/11/01	06/11/01 06/25/01	02/26/01 06/11/01	Pursuant to the Card memo, on February 26, 2001, CMS published a final rule delaying the effective date of the regulation from April 11, 2001, to June 11, 2001. Subsequently, on June 11, 2001, CMS published a final rule that further extended the effective date until June 25, 2001. The agency stated that it delayed the rule again "because we have determined that a short additional period is

⁴ Prior to July 1, 2001, CMS was known as the Health Care Financing Administration.

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							required to properly consider and promulgate necessary revisions. ² On June 25, 2001, CMS published an interim final rule that revised certain provisions and solicited public comment, made technical corrections, and delayed the effective date until August 24, 2001. The amended rule took effect on that date.
01/11/01	Medicaid: Federal Financial Participation Limits	X	X	03/12/01	05/11/01	03/12/01	Pursuant to the Card memo, on March 12, 2001, CMS published a final rule delaying the effective date of the regulation from March 12, 2001, to May 11, 2001. The rule took effect on that date.
04/07/00	Hematology and Pathology Devices; Reclassification; Restricted Devices; OTC Test Sample Collection Systems for Drugs of Abuse Testing			04/09/01	06/08/01	03/30/01	Pursuant to the Card memo, on March 30, 2001, CMS published a final rule delaying the effective date of the regulation from April 9, 2001, to June 8, 2001. The rule took effect on that date.
01/12/01	Medicare Program; Payment for Nursing and Allied Health Education		X	03/13/01	05/14/01	03/12/01	Pursuant to the Card memo, on March 12, 2001, CMS published a final rule delaying the effective date of the regulation from March 13, 2001, to May 14, 2001. The rule took effect on that date.
01/17/01	Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction; Repeal of Current Regulations and Issuance of New Regulations			03/19/01	05/18/01	03/19/01	Pursuant to the Card memo, on March 19, 2001, the Substance Abuse and Mental Health Services Administration published a final rule delaying the effective date of the regulation from March 19, 2001, to May 18, 2001. The rule took effect on that date.
01/17/01	Protection of Human Research Subjects (Provides additional protections for pregnant		X	03/19/01	05/18/01 11/14/01	03/19/01 05/18/01	Pursuant to the Card memo, on March 19, 2001, the Department of Health and Human Services (HHS) published a final rule delaying the effective date

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	women and human fetuses involved in research and pertains to human in vitro fertilization.)						<p>of the regulation from March 19, 2001, to May 18, 2001. On May 18, 2001, HHS published a final rule delaying the effective date until November 14, 2001. The Department said it was doing so "pending the Department's action on forthcoming (sic) notice of proposed rulemaking."</p> <p>On July 6, 2001, HHS published a notice of proposed rulemaking seeking comments on three proposed changes in the original rule.</p> <p>On November 13, 2001, HHS published a final rule that withdrew and replaced the January 17, 2001, rule. The Department said the new rule, among other things, clarified provisions for paternal consent when research is conducted involving fetuses and clarifies language that applies to research on newborns of uncertain viability. The rule took effect on December 13, 2001.</p>
01/18/01	Medicare and Medicaid Programs: Hospital Conditions of Participation: Anesthesia Services			03/19/01	05/18/01 11/14/01	03/19/01 05/18/01	<p>Pursuant to the Card memo, on March 19, 2001, CMS published a final rule delaying the effective date from March 19, 2001, until May 18, 2001. Subsequently, CMS published a final rule on May 18, 2001, delaying the effective date until November 14, 2001. CMS said this delay was needed to provide an opportunity to obtain comments on modifications to the rule.</p> <p>On July 5, 2001, CMS published a proposed rule to amend the physician supervision requirement, permitting</p>

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							<p>states to exempt themselves from the requirement. CMS said that the change would give states the flexibility to improve access and address safety issues. Comments on the proposed rule were due by September 4, 2001.</p> <p>On November 13, 2001, CMS published a final rule making final the proposed changes and withdrawing the original rule. The amendments took effect on that date.</p>
01/19/01	Medicaid Program: Medicaid Managed Care (Among other things, allows states greater flexibility to amend their state plans to require certain categories of Medicaid beneficiaries to enroll in managed care without obtaining waivers; establishes new beneficiary protections and eliminates impediments to the growth of managed care programs.)	X	X	04/19/01	06/18/01 08/17/01 08/16/02	02/26/01 06/18/01 08/17/01	<p>Pursuant to the Card memo, on February 26, 2001, CMS published a final rule delaying the effective and implementation dates of the regulation from April 19, 2001, to June 18, 2001. Subsequently, on June 18, 2001, CMS published a final rule that again extended the effective and implementation dates until August 17, 2001. The agency stated, "a short additional period is required [to properly address concerns raised by key stakeholders]."</p> <p>On August 17, 2001, CMS published a final rule that further extended the effective and implementation dates until August 16, 2002. According to CMS, the previous delays were necessary to give newly appointed department officials the opportunity to review and consider the new regulations. CMS said that during the previous review periods, key stakeholders expressed 'strong (sometimes opposing) views about the regulation.' Therefore, the agency</p>

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							<p>said that this further delay was necessary to give the public an opportunity to comment on the length of the delay of the effective date.</p> <p>On August 20, 2001, CMS published a proposed rule that would address some of the concerns that “were expressed to the Department during our review.” CMS proposed to amend the rule by providing states with greater flexibilities in administering the Medicaid program. The agency also proposed to expand on “existing regulatory beneficiary protection provided to enrollees of prepaid health plans” by requiring these plans to provide services on an inpatient basis to meet requirements under the Balanced Budget Act of 1997 that would not otherwise apply to these entities. In addition, CMS said that this proposed would allow the public additional opportunity to comment on the rule.</p>
01/22/01	Medicare Program; Use of Restraint and Seclusion in Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21 (Establishes a definition of a “psychiatric residential treatment facility” that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21; establishes			03/23/01	05/22/01	03/21/01	<p>Pursuant to the Card memo, on March 21, 2001, CMS published an interim final rule delaying the effective date of the regulation from March 23, 2001, to May 22, 2001. The rule took effect on that date.</p> <p>On May 22, 2001, CMS published an interim final rule clarifying what facilities were subject to the requirements, modifying reporting requirements, and amending staffing requirements. CMS said it did so because of concerns raised in comments on the January 22, 2001,</p>

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	standards for the use of restraints or seclusion.)						interim final rule. CMS also extended the comment period on this rule to July 23, 2001. However, it did not extend the rule's effective date.
01/22/01	Revision of Administrative Practices and Procedures; Meetings and Correspondence; Public Calendars			01/22/01	04/23/01	03/01/01	Pursuant to the Card memo, on March 1, 2001, FDA published a final rule delaying the effective date of the regulation from January 22, 2001, to April 23, 2001. The rule took effect on that date.
Department of Housing and Urban Development (4)							
01/17/01	Revision to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages		X	02/16/01	04/16/01	01/30/01	Pursuant to the Card memo, on January 30, 2001, the Department of Housing and Urban Development (HUD) published a final rule delaying the effective date of the regulation from February 16, 2001, to April 16, 2001.
01/19/01	Discontinuation of the Section 221(d)(2) Mortgage Insurance Program		X	02/20/01	04/20/01	01/30/01	Pursuant to the Card memo, on January 30, 2001, HUD published a final rule delaying the effective date of the regulation from February 20, 2001, to April 20, 2001.
01/19/01	Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income		X	02/20/01	04/20/01	01/30/01	Pursuant to the Card memo, on January 30, 2001, HUD published a final rule delaying the effective date of the regulation from February 20, 2001, to April 20, 2001.
01/22/01	Revision of Freedom of Information Act Regulations			02/21/01	04/23/01	01/30/01	Pursuant to the Card memo, on January 30, 2001, HUD published a final rule delaying the effective date of the regulation from February 21, 2001, to April 23, 2001.
Department of the Interior (6)							
01/10/01	Oil and Gas Leasing: Onshore Oil and Gas Operations		X	02/09/01	04/10/01	02/08/01 08/08/01	Pursuant to the Card memo, on February 8, 2001, the Bureau of Land Management (BLM) published a final

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					11/06/01	08/07/01	<p>rule delaying the effective date of the regulation from February 9, 2001, until April 10, 2001. Subsequently, on April 10, 2001, BLM published a final rule that delayed certain parts of the rule for 120 additional days until August 8, 2001, "in order to seek further public comments."</p> <p>On May 11, 2001, BLM published a correcting amendment to the rule removing in one paragraph the phrase "the operating rights owner" and adding the phrase "the lessee(s) and operating rights owner(s)." BLM said this change was effective on April 10, 2001.</p> <p>On August 7, 2001, BLM published a final rule that further extended the effective date of the previously delayed provisions until November 6, 2001. The agency said that it had received several highly technical comments and could not complete its review before August 8, 2001. Therefore, it was necessary to extend the effective date by 90 days.</p> <p>On November 9, 2001, BLM published a final rule confirming the effective date as November 6, 2001. However, BLM said that it "may give further consideration to alternative approaches...either separately or in connection with broader revisions of its oil and gas regulations."</p>
01/16/01	Acquisition of Title to Land in Trust (procedures used by Indian tribes and		X	02/15/01	04/16/01 08/13/01	02/05/01 04/16/01	Pursuant to the Card memo, on February 5, 2001, the Bureau of Indian Affairs (BIA) published a final rule

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	individuals to acquire title land in trust.)				11/10/01	08/13/01	<p>delaying the effective date of the regulation from February 15, 2001, until April 16, 2001. Subsequently, on April 16, 2001, BIA published a proposed rule that extended the effective date for an additional 120 days to August 13, 2001. BIA said it was doing so “in order to seek comments on whether the final rule should be amended in whole or in part or withdrawn in whole or in part.” Comments on the extension were due by June 15, 2001.</p> <p>On August 13, 2001, BIA published a final rule extending the effective date to November 10, 2001, “in order to continue to review comments that were received from the prior extension.” On the same day, BIA published a notice seeking public comment on whether the original rule should be withdrawn and a “further rule proposed to better address the public’s continued concerns.”</p> <p>On November 9, 2001, BIA published a “withdrawal of final rule” action in the <i>Federal Register</i>. The agency said it was withdrawing the rule to address “specific areas of concern in a new rule.” The agency said the withdrawal was effective immediately.</p>
01/16/01	Policy on Maintaining the Biological Integrity, Diversity, and Environmental Health of the National Wildlife Refuge System			02/15/01	04/16/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, the Fish and Wildlife Service (FWS) published a final rule delaying the effective date of the regulation from February 15, 2001, to April 16, 2001. The rule took effect on that date.

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01/17/01	Loan Guaranty, Insurance, and Interest Subsidy		X	02/16/01	04/17/01	02/05/01	Pursuant to the Card memo, on February 5, 2001, BIA published a final rule delaying the effective date of the regulation from February 16, 2001, to April 17, 2001. The rule took effect on that date.
01/18/01	Boating Infrastructure Grant Program		X	02/20/01	04/21/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, FWS published a final rule delaying the effective date of the regulation from February 20, 2001, to April 21, 2001. The rule took effect on that date.
01/22/01	Special Regulations: Areas of the National Park System (restrictions on snowmobiles and other winter activities in Yellowstone and Grand Teton National Parks as well as the John D. Rockefeller, Jr. Memorial Parkway.)		X	02/21/01	04/22/01	01/31/01	Pursuant to the Card memo, on January 31, 2001, the National Park Service (NPS) published a final rule delaying the effective date from February 21, 2001, until April 22, 2001. The rule took effect on that date. In December 2000, in anticipation of the final rule, the International Snowmobile Manufacturers Association, the State of Wyoming, and recreational groups filed suit in federal district court against NPS (<i>International Snowmobile Manufacturers Association v. National Park Service, D.Wyo., No. 2000-CV-0229</i>). According to press accounts, the parties settled the lawsuit on June 29, 2001, and, as a result of the agreement, NPS will conduct a new environmental impact statement by March 15, 2002, and issue a final rule on the proposed ban by November 15, 2002—a month before the official snowmobile season begins and the first phase outs were to begin under the final rule. On June 29, 2001, an NPS spokesperson was

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							quoted in the press saying that the settlement of the lawsuit could result in the lifting of the snowmobile ban. In its December 2001 report on the cost and benefits of federal regulations, OIRA identified this rule for "high priority" review.
Department of Justice (4)							
12/28/00	Clarification of Parole Authority		X	01/29/01	03/30/01	01/26/01	Pursuant to the Card memo, on January 26, 2001, the Immigration and Naturalization Service (INS) published a final rule delaying the effective date of the regulation from January 29, 2001, to March 30, 2001.
12/28/00	Temporary Protected Status: Amendments to the Requirements for Employment Authorization Fee, and Other Technical Amendments		X	01/29/01	03/30/01	01/26/01	Pursuant to the Card memo, on January 26, 2001, INS published a final rule delaying the effective date of the regulation from January 29, 2001, to March 30, 2001.
01/05/01	Update of the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program		X	02/05/01	04/06/01	02/02/01	Pursuant to the Card memo, on February 2, 2001, INS published a final rule delaying the effective date of the regulation from February 5, 2001, to April 6, 2001.
01/22/01	National Instant Criminal Background Check System Regulation		X	03/05/01	05/04/01 07/03/01	03/01/01 05/04/01	Pursuant to the Card memo, on March 1, 2001, the Federal Bureau of Investigation (FBI) published a final rule delaying the effective date of the regulation from March 5, 2001, to May 4, 2001. Subsequently, on May 4, 2001, the FBI published a final rule delaying the effective date for another 60 days "with the goal of adopting a regulation that will resolve issues regarding audit requirements, privacy

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							interests, and other considerations identified during the recent 60-day review period.”
Department of Labor (5)							
12/27/00	National Medical Support Notice		X	01/26/01	03/27/01	01/26/01	Pursuant to the Card memo, on January 26, 2001, the Pension and Welfare Benefits Administration published a final rule delaying the effective date of the regulation from January 26, 2001, to March 27, 2001.
01/11/01	Welfare-to-Work Grants		X	02/12/01	04/13/01	02/12/01	<p>On January 11, 2001, the Employment and Training Administration (ETA) published a final rule implementing Welfare-to-Work Grants and, in the same publication, published an interim final rule implementing the Welfare-to-Work and Child Support Amendments of 1999.</p> <p>On February 12, 2001, ETA published a final rule that delayed the effective date of both the grants and the amendments pursuant to the Card memo from February 12, 2001, until April 13, 2001. It also extended the date for receipt of comments on the child support amendments for 30 days from March 12, 2001, to April 11, 2001.</p>
01/18/01	Safety Standards for Steel Erection (Revises construction industry standards that regulate steel erection and enhances protections of workers.)	X	X	07/18/01	01/18/02	07/17/01	On July 17, 2001, the Occupational Safety and Health Administration (OSHA) published a final rule delaying the effective date of the regulation from July 18, 2001, to January 18, 2002. Although OSHA cited the Card memo, the agency indicated that it was delaying the effective date because employers had a wide range of questions related to the standard and their ability to comply with it by the original

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							<p>effective date.</p> <p>According to press accounts, on August 27, 2001, the Associated General Contractors of America sent a letter to the Administrator of OSHA objecting to parts of the rule and asking the agency to delay its January 18, 2002, effective date.</p> <p>On November 21, 2001, OSHA posted a draft compliance directive for the steel erection standard on its website.</p>
01/19/01	Diesel Particulate Matter Exposure—Coal Miners		X	03/20/01	05/21/01	03/15/01	<p>Pursuant to the Card memo, on March 15, 2001, the Mine Safety and Health Administration (MSHA) published a final rule that delayed the effective date of part of this regulation from March 20, 2001, to May 21, 2001. The other parts of the rule had effective dates in 2002, 2003, and 2005, and, were not delayed.</p> <p>On May 21, 2001, MSHA published a final rule containing corrections that were effective on May 21, 2001.</p>
01/19/01	Diesel Particulate Matter Exposure of Metal and Nonmetal Miners (Establishes new health standards for underground metal and nonmetal miners working at mines that use equipment powered by diesel engines.)		X	03/20/01	05/21/01 07/05/01 indefinite	03/15/01 05/21/01 07/05/01	<p>On January 29, 2001, Anglogold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the rule in the District of Columbia Circuit. The United Steelworkers of America has intervened in the Anglogold case. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of</p>

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							<p>the rule in the District of Columbia Circuit. The three petitions were consolidated in the District of Columbia Circuit.</p> <p>Pursuant to the Card memo, on March 15, 2001, MSHA published a final rule delaying the effective date of the regulation from March 20, 2001, until May 21, 2001. On May 21, 2001, MSHA published a final rule that further extended the effective date to July 5, 2001. MSHA said this delay "will allow the Department an opportunity to engage in further negotiations to settle the legal challenges to this rule."</p> <p>On July 5, 2001, MSHA published another final rule stating that, with the exception of §57.5066 (b), the rule would become effective July 5, 2001. MSHA said that section 57.5066 (b) was delayed "pending disposition of litigation challenging the rule."</p> <p>Also on July 5, 2001, MSHA published a proposed rule addressing two provisions in sections 57.5066(b) and 57.5067(b)(3). It also announced a public hearing to be held on August 16, 2001.</p> <p>On August 28, 2001, MSHA issued a program information bulletin informing the mining community of its plan for enforcing the diesel particulate standard. The bulletin stated that some provisions of the rule became effective July 5, 2001, but</p>

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							other provisions do not go into effect until after July 19, 2002, or January 19, 2006.
Department of Transportation (15)							
11/05/98	Federal Motor Vehicle Safety Standards; School Bus Body Joint Strength (Extends the application of standard on school bus body joint strength to lighter school buses and narrows exclusions for maintenance access panels.)		X	05/05/01 01/01/03	06/01/02 12/13/01	04/20/01	<p>The National Highway Traffic Safety Administration (NHTSA) received petitions for reconsideration of the final rule from AmTran Corporation, Blue Bird Body Company, and Thomas Built Buses. On March 6, 2000, NHTSA delayed the effective date until May 5, 2001.</p> <p>On April 20, 2001, NHTSA published a final rule that further extended the effective date until June 1, 2002, but the agency did not mention the Card memo. NHTSA said the delay in the effective date was necessary because the agency was in the process of completing the review of the petitions for reconsideration.</p> <p>On December 13, 2001, NHTSA published a final rule that clarified that applicability of the standard and made various other changes. The agency said that it did so in response to petitions for reconsideration of the rule. NHTSA said the amended rule would take effect on January 1, 2003.</p>
04/04/00	Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (One of two final rules that the Federal Aviation Administration (FAA) published on April 4, 2000,		X	04/01/01	12/01/01 02/20/03	03/26/01 12/05/01	<p>On May 9, 2000, The United States Air Tour Association (USATA) and seven air tour operators petitioned the United States District Court of Appeals for the District of Columbia to review this Federal Aviation Administration (FAA) rule. (<i>USATA v. FAA, et al. (Docket No. 001201)</i>) During the litigation, USATA raised a</p>

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	regarding aircraft flight operations over the Grand Canyon National Park (GCNP). The first rule, which went into effect on May 4, 2000, limits the number of commercial air tour operations in the GCNP. This final rule modifies the airspace in the GCNP special flight rules area.)						<p>number of safety concerns. On November 20, 2000, FAA published a final rule that delayed the effective date of this regulation from December 1, 2000, to December 28, 2000. FAA said it did so to "adequately evaluate new safety issues raised by the air tour operators." FAA said that it further extended the effective date for the rule to April 1, 2001, on December 28, 2000. (However, we could find no related <i>Federal Register</i> actions were recorded on that date.)</p> <p>On March 26, 2001, the agency published a final rule that further extended the effective date of certain parts of the rule to December 1, 2001. FAA said the delay was necessary "pending resolution of the safety issues." On December 5, 2001, FAA published another final rule that extended the effective date for portions of the rule to February 20, 2003. The agency stated that the delay was necessary because it was working on the proposed changes to the route structure and airspace modification. The process includes an environmental assessment of the proposed route and publishing a proposal and notice of availability of the new map in the <i>Federal Register</i>. Since the process had not been completed, it was necessary to extend the effective date. None of these delaying actions mentioned the Card memo.</p>
09/15/00	Service Difficulty Reports (Amends reporting		X	07/16/01	01/16/02	04/30/01	On December 22, 2000, FAA delayed the effective date of this rule from

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	requirements for air carriers and repair station operators concerning failures, malfunctions, and defects of aircraft engines, systems, and components.)				01/16/03	11/23/01	<p>January 16, 2001, until July 16, 2001, because of questions raised by the aviation industry on the implementation of the new requirements. On April 30, 2001, FAA said it needed more time to evaluate the comments and published a final rule that further extended the effective date to January 16, 2002.</p> <p>On November 23, 2001, FAA published a final rule that delayed the effective date until January 16, 2003. According to FAA, this action was "prompted by concerns the aviation industry raised about reporting requirements." The agency also said that it expected to issue a notice of proposed rulemaking to address the issues raised by commentators, and to give both the aviation industry and the general public the opportunity to comment on the agency's proposed revisions. None of these delaying actions mentioned the Card memo.</p>
09/27/00	Federal Motor Vehicle Safety Standards; Electric-Powered Vehicles; Electrolyte Spillage and Electrical Shock Protection		X	10/01/01	12/01/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, NHTSA published a final rule delaying the effective date from October 1, 2001, until December 1, 2001. Subsequently, on December 3, 2001, NHTSA published a final rule that made clarifying amendments regarding the application of the standard and other issues. However, the December 1, 2001, effective date was unchanged. NHTSA said that it made the changes in response to petitions for reconsideration of the rule filed by the General Motors and DaimlerChrysler Corporations.

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12/01/00	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators With 500 or More Miles of Pipelines)		X	03/31/01	05/29/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, the Research and Special Programs Administration (RSPA) published a final rule delaying the effective date from March 31, 2001, until May 29, 2001. The rule took effect on that date.
12/07/00	Major Capital Investment Projects		X	02/05/01	04/06/01	02/09/01	Pursuant to the Card memo, on February 9, 2001, the Federal Transit Administration (FTA) published a final rule that delayed the effective date of the part of the regulation that describes the procedures that FTA will use to evaluate and rate New Starts projects. This part of the regulation was originally scheduled to become effective on February 5, 2001, until April 6, 2001. That part of the rule became effective on that date. The effective date for the part of the regulation that was originally scheduled to become effective September 1, 2001, was not changed.
12/21/00	Pipeline Safety: Areas Unusually Sensitive to Environmental Damage		X	02/20/01	04/21/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, RSPA published a final rule delaying the effective date of the regulation from February 20, 2001, to April 21, 2001. The rule took effect on that date.
12/29/00	Mitigation of Impacts to Wetlands and Natural Habitats		X	01/29/01	03/30/01	01/29/01	On January 29, 2001, the Federal Highway Administration (FHWA) published a final rule delaying the effective date of the regulation, but FHWA did not specifically mention the Card memo. The agency said the delayed effective date "will provide the Administration an opportunity to review this final rule."
01/08/01	Intelligent Transportation System Architecture and		X	02/07/01	04/08/01	02/07/01	Pursuant to the Card memo, on February 7, 2001, FHWA published a

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	Standards						final rule delaying the effective date of the regulation from February 7, 2001, until April 8, 2001. The rule took effect on that date. Subsequently, on April 18, 2001, FHWA published a final rule making technical corrections to the regulation. FHWA said these corrections were needed because the effective date had been extended without any changes to two dates cited in the regulation that were intended to be based on the effective date.
01/09/01	Regattas and Marine Parades		X	03/12/01	05/11/01	02/09/01	Pursuant to the Card memo, on February 9, 2001, the Coast Guard (CG) published a final rule delaying the effective date of the regulation from March 12, 2001, to May 11, 2001. The rule took effect on that date.
01/10/01	Revision to Federal Blood Alcohol Concentration (BAC) Standard for Recreational Vessel Operators		X	03/12/01	05/11/01	02/09/01	Pursuant to the Card memo, on February 9, 2001, CG published a final rule delaying the effective date of the regulation from March 12, 2001, to May 11, 2001. The rule took effect on that date.
1/10/01	Civil Penalty Actions in Commercial Space Transportation		X	02/09/01	04/10/01	02/08/01	Pursuant to the Card memo, on February 8, 2001, FAA published a final rule delaying the effective date of the regulation from February 9, 2001, to April 10, 2001. The rule took effect on that date.
01/10/01	Track Safety Standard		X	04/10/01	06/09/01	02/09/01	Pursuant to the Card memo, on February 9, 2001, the Federal Railroad Administration (FRA) published a final rule delaying the effective date of the regulation from April 10, 2001, to June 9, 2001. The rule took effect on that date.
01/11/01	Federal Motor Carrier		X	02/12/01	04/13/01	02/09/01	Pursuant to the Card memo, on

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	Safety Regulations; Definition of Commercial Motor Vehicles (CMV); Requirements for Operators of Small Passenger-Carrying CMVs						February 9, 2001, the Federal Motor Carrier Safety Administration published a final rule delaying the effective date of the regulation from February 12, 2001, to April 13, 2001. The rule took effect on that date.
01/17/01	Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment: End of Train Devices		X	04/01/01	05/31/01	02/12/01	<p>Pursuant to the Card memo, on February 12, 2001, FRA published a final rule delaying the effective date from April 1, 2001, until May 31, 2001. The rule took effect on that date.</p> <p>FRA received several petitions for reconsideration requesting that the agency either amend or clarify the rule. On May 31, 2001, FRA published a final rule, effective immediately, that delayed the <u>compliance date</u> for one of the rule's requirements to a "future date to be specified." FRA said that it took this action in response to a petition from the Association of American Railroads.</p> <p>On August 1, 2001, FRA published a final rule, effective immediately, which clarified and amended the January 17, 2001, rule. FRA said it did so in response to another petition for reconsideration, and that it would respond to other petitions for reconsideration "in the near future."</p>
Environmental Protection Agency (8)							
08/10/00	Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements			02/06/01	04/09/01	02/06/01	Pursuant to the Card memo, on February 6, 2001, the Environmental Protection Agency (EPA) published a final rule delaying the effective date of the regulation from February 6, 2001, to April 9, 2001. The rule took effect on that date.

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11/28/00	Georgia: Final Authorization of State Hazardous Waste Management Program Revision			01/29/01	03/30/01	01/29/01	Pursuant to the Card memo, on January 29, 2001, EPA published a final rule delaying the effective date of the regulation from January 29, 2001, to March 30, 2001. The rule took effect on that date.
11/29/00	Petition by American Samoa for Exemption From Anti-Dumping Requirements for Conventional Gasoline			01/29/01	03/30/01	01/29/01	Pursuant to the Card memo, on January 29, 2001, EPA published a final rule delaying the effective date of the regulation from January 29, 2001, to March 30, 2001. The rule took effect on that date.
12/26/00	Significant New Uses of Certain Chemical Substances			02/26/01	04/27/01	02/07/01	Pursuant to the Card memo, on February 7, 2001, EPA published a final rule delaying the effective date of the regulation from February 26, 2001, until April 27, 2001. The rule took effect on that date.
01/09/01	Environmental Program Grants—State, Interstate, and Local Government Agencies			02/08/01	04/09/01	02/07/01	Pursuant to the Card memo, on February 7, 2001, EPA published a final rule delaying the effective date of the regulation from February 8, 2001, to April 9, 2001. The rule took effect on that date.
01/16/01	Environmental Program Grants for Tribes			02/15/01	04/17/01	02/09/01	Pursuant to the Card memo, on February 9, 2001, EPA published a final rule delaying the effective date of the regulation from February 15, 2001, to April 17, 2001. The rule took effect on that date.
01/17/01	Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting			02/16/01	04/17/01	02/16/01	Pursuant to the Card memo, on February 16, 2001, EPA published a final rule delaying the effective date of the regulation from February 16, 2001, until April 17, 2001. Subsequently, in an April 9, 2001, letter to EPA, the Small Business Administration's Office of Advocacy said the agency did not use sound science as the basis of its January 17,

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							<p>2001, rule, and did not properly certify the rule under the Regulatory Flexibility Act.</p> <p>On April 10, 2001, a coalition of metal industry groups filed a lawsuit seeking withdrawal of the rule. (<i>Ad Hoc Metals Coalition v. EPA, D.D.C., No. 01CV00766</i>) Another lawsuit was filed by the National Federation of Independent Businesses (NFIB) on April 26, 2001 (<i>NFIB vs. EPA, D.D.C., No. 01CV900</i>)</p> <p>On April 17, 2001, EPA announced that it would not change the final rule, and the rule became effective on that date.</p> <p>On September 10, 2001, EPA posted on its web site draft guidance on how to report releases under the new rule. Reporting for 2001 must be submitted to EPA by July 2002.</p>
01/22/01	National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (Sets goals and maximum contaminant levels for arsenic in community water systems and nontransient noncommunity water systems.)	X	X	03/23/01	05/22/01 02/22/02	03/23/01 04/23/01	Pursuant to the Card memo, on March 23, 2001, EPA published a final rule delaying the effective date from March 23, 2001, until May 22, 2001. Subsequently, on April 23, 2001, EPA published a notice of proposed rulemaking to extend the effective date for 9 months to February 22, 2002. EPA said it took this action to "reassess the scientific and cost issues associated with this rule and seek further public input on each of these issues." EPA also said that it would request the National Academy of Sciences to convene a panel of scientific experts to (1) review EPA's

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							<p>interpretation and application of arsenic research and (2) review and evaluate any new arsenic research. At the same time, EPA said that it would work with the National Drinking Water Advisory Council to review the assumptions and methodologies underlying the estimate of arsenic compliance costs.</p> <p>On May 22, 2001, EPA published a final rule that confirmed the 9-month delay in effective date proposed by the agency on April 23, 2001.</p> <p>On June 15, 2001, EPA published a notice announcing three meetings of the Arsenic Cost Working Group of the National Drinking Water Advisory Council.</p> <p>On July 19, 2001, the agency published a proposed rule that requested comments on a range of maximum contaminant level (MCL) options for the arsenic in drinking water rule. Comments were due by October 31, 2001.</p> <p>On October 5, 2001, EPA published a notice announcing the availability of three reports and recommendations on the science, cost of compliance, and benefits analyses in support of its rule on arsenic in drinking water. These reports were made available to allow commenters to consider this information in preparing their comments on the July 19, 2001, proposal.</p>

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							<p>On November 26, 2001, Congress enacted the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002, that included language that prohibited EPA from using the funds to delay the January 22, 2001, rule.</p> <p>According to the December 2001 OIRA report on the costs and benefits of federal regulations, EPA has concluded all expert reviews and is in the process of completing a final arsenic in drinking water rule to be published by February 22, 2002. EPA Administrator Whitman has indicated that the final rule will effectively reinstate the level of protection reflected in the January 22, 2001, rule. Also in this report, OIRA identified this rule for "high priority" review.</p>
Department of Defense and the Environmental Protection Agency (1)							
01/17/01	Further Revisions to the Clean Water Act Regulatory Definition of "Discharge of Dredged Material"			02/16/01	04/17/01	02/15/01	Pursuant to the Card memo, on February 15, 2001, the Department of Defense (DOD) and EPA published a final rule delaying the effective date of the regulation from February 16, 2001, to April 17, 2001. The rule took effect on that date.
Department of Defense, General Services Administration and National Aeronautics and Space Administration (1)							
01/10/01	Federal Acquisition Circular 97-22 (Summarizes the agreements reached between the Civilian Agency Acquisition Council and the Defense Acquisition Council regarding Federal			03/12/01	05/11/01	03/09/01	Pursuant to the Card memo, on March 9, 2001, DOD, the General Services Administration (GSA) and the National Aeronautics and Space Administration (NASA) published a final rule delaying the effective date of parts of the regulation from March 12, 2001, to May 11, 2001.

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	Acquisition Regulations rules on clarification of definitions, advance payment for noncommercial items, assignment of claims, and flowdown of clauses from contractors to subcontractors.)						
Department of the Treasury, Federal Reserve System, and the Federal Deposit Insurance Corporation (1)							
12/04/00	Consumer Protections for Depository Institution Sales of Insurance		X	04/01/01	10/01/01	03/19/01	On March 19, 2001, the promulgating agencies published a final rule that delayed the effective date of this rule until October 1, 2001, but the agencies did not mention the Card memo. The agencies said that they were delaying the effective date because they had received a number of comments indicating that many depository institutions would be unable to comply with the regulations by the original April 1, 2001, effective date.
Departments of the Treasury, Labor, and Health and Human Services (1)							
01/08/01	Interim Final Rule for Nondiscrimination in Health Coverage in the Group Market	X	X	03/09/01	05/08/01	03/09/01	Pursuant to the Card memo, on March 9, 2001, the promulgating agencies published a final rule delaying the effective date of the regulation from March 9, 2001, to May 8, 2001. The rule took effect on that date.
Office of Personnel Management (2)							
12/28/00	Suitability (Suitability for employment in competitive service positions and Senior Executive Service career appointments.)		X	01/29/01	03/30/01	01/26/01	Pursuant to the Card memo, on January 26, 2001, the Office of Personnel Management (OPM) published a final rule delaying the effective date of the regulation from January 29, 2001, to March 30, 2001.
01/11/01	Repayment of Student Loans		X	02/12/01	04/12/01	02/07/01	Pursuant to the Card memo, on February 7, 2001, OPM published a final rule delaying the effective date of the regulation from February 12,

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							2001, to April 12, 2001.
Small Business Administration (1)							
01/22/01	New Markets Venture Capital Program (Establishes the requirements for newly formed venture capital companies to make developmental investments in smaller enterprises located in low-income geographic areas, provide operational assistance to enterprises receiving such investments, and allow existing companies to qualify for grants to provide operational assistance.)		X	02/21/01 04/23/01 06/22/01	04/23/01 06/22/01	02/20/01 04/23/01	<p>Pursuant to the Card memo, on February 20, 2001, the Small Business Administration (SBA) published a final rule delaying the effective date of the regulation from February 21, 2001, until April 23, 2001. Subsequently, on April 23, 2001, SBA published a final rule that further extended the effective date to June 22, 2001, "in order to give the Administration further opportunities to consider new regulations and to conduct a rulemaking."</p> <p>On the same day, SBA proposed withdrawal of the January 22, 2001, rule, and proposed new regulations to implement the program. SBA said it intended to implement the proposed rule, which reflects technical changes based on the agency's consideration of specific comments on the original interim final rule.</p> <p>On May 23, 2001, SBA published a final rule withdrawing the original rule and making final the new regulations. SBA said it received no comments on the proposed withdrawal of the January 22, 2001, rule.</p> <p>On June 19, 2001, SBA published a final rule making technical corrections to the May 23, 2001, withdrawal action.</p>

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Social Security Administration (1)							
01/12/01	Testimony by Employees and the Production of Records and Information in Legal Proceedings			02/12/01	04/13/01	02/12/01	Pursuant to the Card memo, on February 12, 2001, the Social Security Administration published a final rule delaying the effective date from February 12, 2001, until April 13, 2001. Subsequently, on March 12, 2001, the agency published a correction to the final regulations.
Corporation for National and Community Service (1)							
12/13/00	AmeriCorps Education Awards			02/12/01	04/13/01	02/12/01	Pursuant to the Card memo, on February 12, 2001, the Corporation for National and Community Service published a final rule delaying the effective date of the regulation February 12, 2001, to April 13, 2001.

Sources: GAO analysis of *Federal Register* publications.

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